



Memorandum

TO: CITY COUNCIL AND AGENCY
BOARD

SUBJECT: NORTH SAN JOSÉ SCHOOLS
PLAN

FROM: Mayor Chuck Reed

DATE: July 18, 2008

APPROVED:

Chuck Reed

DATE:

7/18/08

RECOMMENDATION

(a) Approve a plan, as described in Attachment 2, to set aside Redevelopment Agency (Agency) funds for the specific purpose of land acquisition and development costs of joint school and park facilities as needed to support student generation resulting from the proposed future residential development in North San José, consistent with the adopted North San José Vision 2030 Area Development Policy as follows:

- (1) Appropriate \$15 million from funds set aside for North San José infrastructure improvements in the FY 2008-09 Redevelopment CIP Budget for a joint school/park use on Agnews East lands located on Zanker Road in North San José;
- (2) In FY 2011-12, contingent on the Agency's ability to issue future debt, appropriate an additional amount up to \$30 million for the acquisition of land and construction of joint school/park facilities, in North San José in the location identified above ; and
- (3) Prior to issuance by the City of any residential building permits under Phase 2 of the adopted North San José Area Development Policy, and contingent on the Agency's ability to issue future debt, appropriate funding to acquire land for another joint school/city park site in the amount of \$50,000 per student generated out of Phase 1 of the adopted North San José Area Development Policy in excess of existing capacity (529 students) with the total amount not to exceed \$30 million.

(b) Direct the City Manager and Redevelopment Agency Executive Director to:

- (1) Negotiate the terms of an Agreement with the Santa Clara Unified School District, to be brought forward for City Council/Agency Board consideration within 90-days of this action being approved, related to appropriating Agency funds towards land and development costs associated with the plan described above; and
- (2) Initiate discussions with the State of California, and any and all other private and/or public parties and agencies as necessary, to declare the Agency and City's interest in pursuing the acquisition of a 15-acre portion of the Agnews East site on Zanker Road for joint school/park purposes.

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BACKGROUND

The North San José Vision 2030 Area Development Policy adopted in June 2005 provides for an additional 26.7 million square feet of R&D office space generating 83,000 jobs and 32,000 units of new high-density residential housing units. The Policy also provides for the development of approximately 1.7 million square feet of retail space, and establishes a plan for the development of public parks, schools, police and fire facilities. Four phases of development are envisioned; each phase is anticipated to allow 7 million square feet of R&D office space and 8,000 units of housing. The North San José Neighborhoods Task Force in March 2008, under the leadership of Councilmember Chu, approved a set of Guiding Principles which will contribute to the preparation of the North San José Implementation Strategy currently in progress and scheduled to be presented to Council this summer.

The North San José Policy expressly described that planning for a new school site and/or the development of other strategies to address the need for expanded school capacity should be completed prior to the addition of 50 elementary, junior high or high school students within the new residential overlay areas in North San José. Pursuant to the conditions of the December 2006 North San José Settlement Agreement for a legal challenge of the Policy, the City agreed to further study the impact of the proposed development on schools which included funding a student generation report and a school facility plan. The Student Generation Report was completed in August 2007, and the Schools Facility Plan was approved by City Council on March 6, 2008, along with the acceptance of the North San José Task Force's Guiding Principles.

The purpose of this memorandum is to discuss opportunities by which the City and Agency can continue to support the planning and implementation of a comprehensive schools plan in North San Jose, and more specifically to attempt to address the concerns of the Santa Clara Unified School District by offering a mechanism to fund land acquisition and development costs associated with the development of school facilities as needed to support the development of Phase 1 residential projects.

The four school districts that serve North San José include Santa Clara Unified, Orchard, East Side Union High School, and San José Unified. Each district was actively engaged in the preparation of the above mentioned Schools Facility Plan. Both the Orchard and San José Unified School Districts have intimated that their districts currently have sufficient capacity to accommodate the growth that could occur from the North San José Vision 2030 Plan. The East Side Union District believes that a new high school in the Berryessa/North San Jose region may be required sometime in the future. The Santa Clara Unified School District (SCUSD) estimates that the impact of the proposed North San José development to its district will be quite significant and would require the development of several new schools.

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To fund this schools facilities plan, the SCUSD Board of Trustees is considering the formation of a \$788 million Mello-Roos Community Facility District (CFD) by placing an initiative on the November 2008 ballot. While the Board deferred taking action on this item at its June 26th hearing, the item is scheduled for hearing and action on July 24th.

The District estimates that 16,000 units (of the total 32,000 units in North San José) will be built within its boundary. At a student generation rate of 0.22 students per housing unit, the District believes that it will need to serve over 3,500 students. To adequately provide for this number of students, the District's latest school plan specific to North San José includes land acquisition and construction of one new K-5, one K-8, and half a high school at a total cost of \$247.5 million or \$70,330/student.

City and Agency in-house estimates predict the need for one K-8 school, to house fewer than 1,000 students from all 32,000 units using a 0.043 student generation rate. This estimate is endorsed by several residential developers based on real world experience with building the type and the densities of housing development proposed in North San José. Staff further details that the Phase 1 projects within the SCUSD boundaries could generate approximately 270 students including about 130 students from affordable housing units.

We have also learned through the efforts of the NSJ Task Force, and subsequent communications with representatives of all of the Districts serving the North San José area, that opportunities are available through existing capacity and the in-place expansion of such capacity, to accommodate approximately 2000 more students in North San José prior to any new construction of schools.

Not including any closed schools that could be reopened, the existing and expansion capacity is as follows:

SCUSD, Orchard and SJU existing capacity	= 1,109 students
SCUSD and Orchard expansion capacity	= 360 students
Downtown College Prep expansion in Alviso	= 500 students

Several potential funding sources exist to provide for students that will be generated by the new development including: school impact fees, a \$40 million voter approved bonding measure for potential expansion in the Orchard School District, and \$500 million in Prop 1D funding for charter school construction.

ANALYSIS

The City Council has, on several occasions in the past 2 years, expressed its strong interest in providing support for schools as needed for approved residential development projects in North San José that are consistent with the Vision 2030 Policy and advance the goals of the San José General Plan, the Redevelopment Plan, and the City's Economic Development Strategy.

San José has an opportunity to clearly send a message that the education of children is a priority that we take seriously, and to extend a good faith effort to provide for the needs of the next

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generation that will live, play and learn in North San José. Developing a plan that doesn't require an overly burdensome tax to be imposed on development is the only option that should be considered at this time, at least until the Phase 1 development scenario is completed and brings to light real data that can generate a plan for future phases of development.

In that spirit:

- I invited several representatives of the North San José Schools developer consortium to meet with me on June 6, 2008, to discuss ways in which to address the SCUSD's concerns; at which meeting the developers expressed their ability to generate approximately \$28 million in school impact fees at the Statutory Level 1 requirement.
- I invited the School District Board Presidents and District Superintendents of each of the four school districts to meet with me on June 18, 2008, to discuss advancing the goals of the North San José Schools Facility Plan, and to evaluate available opportunities to address the SCUSD's desire to provide for the students it was projecting the North San José development projects would generate in the long-term.
- On June 24, 2008, I presented the attached written proposal (Attachment 1) to the SCUSD Board proposing \$45 million in Agency funding (contingent on Redevelopment Agency Board approval and on the ability of the Agency to raise its bonding cap) for land acquisition and development costs of North San José schools, with a request that the District Board defer taking action on the Mello Roos proposal at its June 26, 2008 hearing;
- On July 2, 2008, I met with the developers once again to encourage them to consider what, if at all, they were capable of financing above and beyond the statutory school impact fees, and understood that the developers were willing and able to respond to a \$6,000 flat fee per unit (equating to a \$38 million contribution) which would on average more than double the existing State Level 1 school impact fee. The developers and SCUSD would execute mitigation agreements to facilitate this contribution towards the schools plan.
- On July 10, 2008, I sent the attached written proposal (Attachment 2) to the SCUSD Board which modified the June 24, 2008 proposal by adding a not-to-exceed Agency contribution of an additional \$30 million (or \$50,000/student over the existing SCUSD capacity) in the event that the developers agreed to a flat fee of \$6,000 per unit for Phase 1 development projects as described above. The developers have submitted a letter to the District expressing their willingness to pay the flat fee of \$6,000 per unit.

This July 10th proposal will likely be a critical factor in the District Board discussions at a hearing that is scheduled for July 24, 2008, at which time it is conceivable that the District Board would either decide to defer the action before them or proceed with a November ballot measure.

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The District Board has asked for a binding commitment of this proposal from San José, and could, if the City Council and Agency Board agree to give direction to the City Manager and Executive Director to negotiate and execute an agreement with the SCUSD, consider holding a special hearing on August 6, 2008 to finalize the District Board's position on this matter. My hope is that my proposal, contingent on City Council/Agency Board approval, will be sufficient grounds on which the District Board would forego its plans to form a Mello Roos CFD to fund school needs at the currently proposed amounts.

I would appreciate the support of my City Council colleagues in this matter. Our commitment of Agency funds will be for the express purpose of financing land acquisition and development costs associated with providing joint school/park facilities in North San José. Much of the funding, of course, would only be available if the Agency's bonding capacity is increased, and when development proceeds in North San José which would generate increased assessed values and tax increment.

We have before us an opportunity to set aside currently budgeted redevelopment funds and future tax increment revenue into facilitating the proper implementation of the Rincon Redevelopment Plan and the Council adopted North San José Area Development Policy. If the SCUSD student generation rates are correct, Agency funds will be allocated towards land acquisition and development costs associated with adequately providing for school facilities. In the event that the SCUSD student generation rates do not come to pass, the Agency would retain the right to the lands that it acquired and could use the land for other redevelopment purposes as necessary, including the development of parks, public facilities, or to be sold for private development purposes. Land banking has proven to be a very sound long-term investment strategy.

North San José is one of the world's premier technology and innovation districts, home to over 1200 global driving industry technology companies supported by a large concentration of suppliers and service providers. North San José currently has approximately 42 million square feet of R&D, office and manufacturing space, and approximately 8,000 residential units. The June 2005 North San José Area Development Policy provides for additional R&D office space and worker housing to be developed in North San José as described earlier in this memorandum.

Since the policy was approved, substantial development has been approved as follows:

R&D office space approved:	2,194,450 sf
R&D office space in PD permit process:	532,960 sf
Residential units approved:	6,804 units
Residential units in the PD permit process:	3,603 units
Retail space approved:	318,000 sf
Retail space in the PD permit process:	234,160 sf

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This amounts to approximately \$6.7 billion in private investment. It is also anticipated that over 47,500 full time and part time construction jobs would be generated from the build-out of the proposed development in Phase 1.

The current SCUSD proposal to form a Mello-Roos CFD, could effectively take away any hope of residential development and billions of dollars of private investment from occurring in North San José. The developers have said they would have no choice but to walk away from developing in North San José. Their position, especially in light of tremendous volatility in the current financing markets, is endorsed by the San José/Silicon Valley Chamber of Commerce, the Silicon Valley Leadership Group, the Home Builders Association, the California Building Industry Association, the California Apartment Association, and the Santa Clara Association of Realtors.

I believe there is a good opportunity here for a settlement of this debate. The SCUSD must be assured that the City of San José is sincerely engaged in solving for the educational needs of students that the North San José development projects could generate.

Let us in good faith work with each other and the developers with their commitment of additional funding, to proceed with Phase 1 of the North San José development. Let the facts on the ground as Phase 1 development nears completion help scope the funding needs of Phases 2 to 4 of the Policy.

In the event that the District Board proceeds with the formation of the Mello Roos CFD for North San José as currently written, this San José proposal should expire.

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Attachments:

Attachment 1: June 24, 2008 Proposal from Mayor Reed to SCUSD Board of Trustees

Attachment 2: July 10, 2008 Proposal from Mayor Reed to SCUSD Board of Trustees

Attachment 3: SCUSD Board President Flot's response to July 10, 2008 Proposal from Mayor Reed and Responses from North San José developers and Santa Clara/Sunnyvale developers

Attachment 4: Letters on the Mello Roos Proposal from the California Building Industry Association, Home Builders Association, California Apartment Association Tri-County, Silicon Valley Leadership Group, and the San Jose/Silicon Valley Chamber of Commerce



Chuck Reed
MAYOR

June 24, 2008

President Pat Flot and Members of the
Santa Clara Unified School District Board
1889 Lawrence Road
Santa Clara, CA 95051

and Via Facsimile: (408) 453-6601

Dear President Flot and Board of Trustees:

I'm writing with respect to a proposal that the Santa Clara Unified School District Board of Trustees will consider at its Thursday, June 26, 2008 meeting regarding the formation and election of a Mello-Roos Community Facility District to fund a schools plan in North San José.

Enclosed is a letter that outlines some opportunities to provide for capacity for 2700 students without a new tax.

Please consider deferring a decision on the proposal before you on Thursday evening. Let's continue to work together to develop a North San José schools plan that helps your School District and our City achieve important education and economic development goals.

Please know that I fully appreciate all the work undertaken to date by the School District staff and the many hours that you as a Board have already committed on this effort. I am committed to working with your school district staff, representatives of other school districts in the North San José area, as well as with the development community, to develop both a short-term and long-term strategy to support and provide for the education of children living in North San José.

I plan to seek in August approval of actions by the San José City Council and the San José Redevelopment Agency Board that demonstrate that our partnership is real and our efforts to facilitate a plan are sincere.

We agree that providing for the needs of future students is a task we all must take seriously. We anticipate – especially in light of current financial and economic conditions in the housing market - that student generation will not occur in the area until at least 2010. Time is on our side, and we have an opportunity to work collaboratively with all of the stakeholders to achieve what is in the best interests of the children.

Sincerely,

Chuck Reed
Mayor

June 23, 2008

Pat Flot
President, Board of Trustees
Santa Clara Unified School District

via facsimile: (408) 243-3088

Kenneth Riley
President, Board of Trustees
Orchard School District

via facsimile: (408) 944-0394

Pamela Foley
President, Board of Trustees
San Jose Unified School District

via facsimile: (408) 371-8790

Lan Nguyen
President, Board of Trustees
East Side Union High School District

via facsimile: (408) 347-7624

Jane Howard
President SCC Board of Education

via facsimile: (408) 453-6601

Dear President Flot, President Riley, President Foley, President Nguyen, and
President Howard:

Thank you for joining me on June 18 to discuss how we can collaborate to provide classroom capacity for future students who will live in North San José. I appreciate everyone's participation and cooperation.

Based on what was said at the meeting, I have modified my estimate for how much capacity we could generate, but it still appears we can generate enough classroom space for at least 2700 new students, without a new tax in Phase 1 of the implementation of the North San José Vision 2030 Plan. Your review of the data presented below, and any information you may have regarding additional resources we should be considering, is appreciated.

Here are the opportunities for increasing capacity and the order in which they could be available:

SCUSD schools existing	529
Orchard School existing	500
SJ Unified existing	80
Orchard School expansion	150
Other SCUSD schools expansion	210
Downtown College Prep in Alviso expansion (estimated to draw 300 students from SC Unified)	500
New school and park on Agnews East Campus	<u>800</u>
Total	2769

Here are the potential funding sources:

School Impact fees from both proposed residential and industrial/commercial development could generate up to \$28 million in Phase 1.

Orchard School District has \$40 million in voter approved bonding capacity for potential expansion.

The San José Redevelopment Agency could contribute up to \$45 million.

Proposition 1D included \$500 million in funding for charter school construction.

I suggest we proceed as follows:

1. The City will express to the State our desire to initiate the process to acquire 15 acres at the south end of Agnews so that the land will be available for a school/park when needed.
2. The City will work with Downtown College Prep to help identify funding for expansion from 100 to 600 students.
3. The Santa Clara Unified School District will attempt to negotiate mitigation agreements with the Phase 1 residential developers to bring the Phase 1 development fees up to \$28 million (which includes fees from industrial/commercial development).

On August 12th I will ask the City Council/Redevelopment Agency Board to appropriate \$15 million for schools out of Redevelopment Agency funds set aside for North San José infrastructure. I will also ask the Council to designate the south end of Agnews as our

preferred school and park site and communicate that preference to the State, as well as to a San José technology company that has our expressed interest in the long-term use of the Agnews lands for its expansion needs.

The San José Redevelopment Agency is in the process of increasing its financial cap. Once that is completed, and if we agree on a plan, I will ask the City Council/ Redevelopment Agency Board to appropriate an additional \$30 million to acquire land on the Agnews site for a joint park school project.

I realize this is just the outline of a plan, but it is clear that if we work together and use our existing resources, we can provide capacity for many years of residential development without imposing a new tax at this time.

Best Wishes.

Sincerely,



Chuck Reed
Mayor

P.S. Per the request of the Santa Clara Unified School District for information regarding the impact of affordable housing development in North San José on the Santa Clara Unified School District enrollment, please the attached analysis by the City of San José's Department of Housing.

cc: San Jose City Council
City Manager
Executive Director SJRDA
Superintendent SCUSD
Trustees SCUSD
Roger Barnes, SCUSD
Superintendent OSD
Trustees OSD
Superintendent SCCOE
Trustees SCCOE
Jennifer Andaluz, Downtown College Prep

Memorandum

TO: JOHN WEIS
Assistant Executive Director
Redevelopment Agency

FROM: Leslye Krutko
Director of Housing

SUBJECT: SEE BELOW

DATE: June 23, 2008

**SUBJECT: ESTIMATED IMPACT OF AFFORDABLE HOUSING DEVELOPMENT IN
NORTH SAN JOSE ON SANTA CLARA SCHOOL DISTRICT
ENROLLMENT**

The Housing Department has reviewed the anticipated development of affordable housing in North San Jose as it impacts student enrollment projections in the Santa Clara Unified School District (SCUSD).

Of the 1,600 affordable units in Phase 1:

1. To date, 390 units are planned in the San Jose Unified School District (106 senior units/184 family units in the ROEM project, and 100 units in a First Community Housing Project)
2. That would leave up to 1,210 units that could be developed in the Santa Clara Unified School District. (Note: it is likely that some of these units would be developed in either the Orchard or San Jose Unified School Districts.)

Of the 1,210 units that could be developed in the SCUSD:

1. Legacy plans to develop 106 family units in an 80-20 deal (where 20% of the units are VLI). These units are all one and two bedrooms. (For purposes of the calculations below, we assume half are one-bedroom units and half are two-bedroom units.)
2. We are working with Legacy to develop a 99-unit SRO on a 1-acre site.
3. Conservatively, and based on our experience and current priorities for funding, we would project that the remaining 1,005 units would fall into the following categories:
 - a. 241 units would be senior units
 - b. 382 units would be SRO units
 - c. 383 units would be Family units
 - i. 153 of these would be 1 bedroom units
 - ii. 153 would be 2 bedroom units
 - iii. 76 would be 3 bedroom units

To summarize, we project that about 488 of the 1,210 units developed would be family units of one- to three bedrooms (382 plus the 106 Legacy units). Based on our projections above of what

John Weis
June 23, 2008

SUBJECT: ESTIMATED IMPACT OF AFFORDABLE HOUSING DEVELOPMENT IN NORTH SAN JOSE ON SANTA CLARA SCHOOL DISTRICT ENROLLMENT

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the unit types will be and our experience with existing projects on student generation, we would assume:

1. 206 of the units would be one bedrooms and would generate 14 students.
2. 206 of the units would be two bedrooms and would generate 64 students.
3. 76 of the units would be three bedrooms and would generate 52 students.

As this calculation shows, the total projected student generation would be 130 students. We believe that this number is valid, based on prior experience and study. We have very carefully studied school generation numbers by product type. This study has shown that the type of development envisioned in North San Jose—high density one- and two-bedroom developments—is unlikely to draw many families with school age children. At present, there are not many family-friendly amenities in North San Jose, such as special schools/day care, regional parks, family centers, and sports fields. Additionally, the study showed that those children living in the higher-density structures were not of school age. In fact, 60% were under five. You can argue that they will eventually need schools, or you can argue that young people living in these high density projects move in without children, have them there, and then move to a more family-oriented environment once their children reach kindergarten age.

It may seem that 130 students is a low number. But, in our survey, the project with the highest student-to-unit ratio was Tierra Encantada in East San Jose, which had 28 school-age children living in 93 units, for a ratio of .30. Tierra Encantada has three one-bedroom units, 62 two-bedroom units, and 28 three-bedroom units. This product type, however, is not as dense as the development planned in North San Jose. Even if we used this higher number to project student generation numbers for the SCUSD, it would result in an estimate of 146 students.

Additionally, we have conducted an analysis of the impact of affordable housing on school enrollment on a development by development basis. This study did not find a correlation between the development of an affordable housing project and an increase in school enrollment. We found that many families kept their children in their previous schools, and that other factors impacted whether school enrollment fell or increased.

In summary, when you take into account that not all of the 1,600 units will be built in the SCUSD boundaries and that many of the units will be SRO or senior developments, the school impact is not expected to be significant. As you know, we have the studies to back up this data. Please let me know if you should need any additional information.


LESLEYE KRUTKO
Director of Housing

c. Debra Figone, City Manager



Chuck Reed
MAYOR

July 10, 2008

President Pat Flot and Members of the
Santa Clara Unified School District Board
1889 Lawrence Road
Santa Clara, CA 95051

and Via Facsimile: 408-243-3088

Dear President Flot and Board of Trustees:

I appreciate the Santa Clara Unified School District Board's decision on June 26, 2008, to defer action on the proposed election to form a Mello-Roos Community Facility District to fund the District's Schools Facilities Plan in North San José.

In the spirit of collaboration and to address the concerns expressed by the Board and District staff, I am modifying the proposal in my letter dated June 24, 2008.

My letter proposed a San José Redevelopment Agency contribution of up to \$45 million as one potential source of funding (\$30 million of which was contingent upon approval of an increase to the Agency's bonding capacity), and approximately \$28 million in school impact fees from the proposed Phase 1 residential and industrial/commercial development. I also identified opportunities to provide for 2700 students through existing capacities and expansions within your District, Orchard School District, San José Unified School District, East Side Union High School District, and Downtown College Prep.

I have since met with development community representatives and City and Redevelopment staff to ascertain what, if any, other funds could be brought to help protect the District from the risk of the occurrence of the District's "most likely" scenario from North San José's Phase 1 development.

If the North San José residential developers, representing the pipeline Phase 1 development projects, agree to increase their school impact fees to a flat fee of \$6,000 per unit, which equates to an approximately \$38 million contribution from the Phase 1 developers, the District would receive on average, double the existing State Level 1 school impact fees.

If the developers are willing to contractually agree to increase school impact fees to the fee level mentioned above, I will take the following proposal to a special meeting of the Redevelopment Agency Board on August 5, 2008 for their consideration:

1. Appropriate \$15 million for schools out of Redevelopment Agency funds set aside for North San José infrastructure. The Agency Board would designate the south end of the Agnews East site on Zanker Road as our preferred school and park site. Staff will start the process to acquire up to 15 acres of the Agnews site which will be available for a joint school/City park when needed.
2. In FY 2011-2012, contingent on the Agency's ability to issue future debt, the Agency will contribute an additional amount up to \$30 million for the acquisition of land at Agnews and/or construction of school facilities for students generated from the new developments in North San José.
3. Before any Phase 2 residential building permits are issued, contingent on the Agency's ability to issue future debt, the Agency will appropriate funding to acquire land for another joint school/City park site in the amount of \$50,000 per student generated out of Phase 1 in excess of existing capacity (529 students) with the total amount not to exceed \$30 million.
4. Work with Downtown College Prep to help identify funding for its expansion from 100 to 600 students.

This proposal, contingent upon approval by the Redevelopment Agency Board, will provide for more than \$110 million towards land acquisition and construction of school facilities which would remove some of the uncertainty for the District and allow the District to defer a decision on a new tax until we approach the end of Phase 1 and have better data on student generation rates.

If the District chooses to accept this proposal, we will move ahead to draft the necessary legal documentation to formalize the terms outlined in this proposal. The resulting agreement between the Redevelopment Agency and the Santa Clara Unified School District will be presented for Agency Board consideration shortly thereafter.

If however, the District decides to not accept this proposal and rather proceeds with the formation of the Mello-Roos Community Facility District, this proposal expires when the ballot measure is presented to the Registrar of Voters.

Santa Clara Unified School District Board
Re: Mello-Roos Community Facility District

July 10, 2008
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Educating future generations of our children is a priority we take very seriously. We intend to offer our continuing support to the District.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Reed". The signature is written in a cursive, flowing style.

Chuck Reed
Mayor

cc: San Jose City Council
City Manager
Executive Director, San Jose Redevelopment Agency
City Attorney
Superintendent SCUSD
Roger Barnes, SCUSD
Superintendent OSD
Trustees OSD
Superintendent SJUSD
Trustees SJUSD
Superintendent ESUSHD
Trustees ESUSHD
Superintendent SCCOE
Trustees SCCOE
Jennifer Andaluz, Downtown College Prep

July 16, 2008

The Honorable Chuck Reed
Mayor, City of San Jose
San Jose City Hall, 18th Floor
200 East Santa Clara Street
San Jose, CA 95113

Dear Mayor Reed,

On June 21, 2005, members of our Board of Trustees attended the San Jose City Council meeting to express concern over the City's North San Jose development plan. From that meeting through today, our goal has been to ensure that the students generated from new housing in North San Jose would have quality, neighborhood schools to attend. While we disagree on the number of students to be generated out of this new housing, the fact remains that we are responsible for providing school facilities for however many students show up at our doorstep whenever they show. We have developed a plan, the Mello Roos/ Community Facility District, which will provide funding for the anticipated school facilities. This funding method is fair to all current and future residents of the school district, is commensurate with the need for schools and only charges developers for facilities actually needed. This plan mitigates the risk of the City's student generation rate numbers being too low.

The Board has received your July 10, 2008 proposal and we will be discussing it at a special Board meeting on July 21, 2008 at 7:00 PM. On the surface, this looks like a proposal that merits further discussion by the Board. Although I cannot speak for the entire Board, I am encouraged by the proposal as a step in the right direction in helping us mitigate the risks associated with the number of students coming out of the new development. Funding for the first K-8 school and funding for land for the second K-5 school are positive developments. However, I remain concerned that your proposal does not address our high school needs for either land or construction. This imminent need must be addressed. At a minimum, we may need additional concessions from the developers or the Redevelopment Agency to allow us to land bank for a high school. Your plan also does not address future phased development.

As you are aware, timing is now critical. This is why we have called the special Board meeting. We will discuss your proposal on July 21, 2008 and any other items that the Board still has questions about. At our regularly scheduled July 24, 2008 Board meeting we will take up the issue of calling for a Mello Roos/Community Facility District election. Since your proposal is contingent upon City Council/RDA approval, the Board may vote to put the Mello Roos on the November 4, 2008 ballot. The district must take action to put this measure on the November ballot by August 1, prior to your Council meeting. We have the ability to take it off the ballot before August 13. If a proposal acceptable to our School Board is approved by your Council, and the affected developers sign all agreements on August 5, 2008, I will call a special Board meeting between August 6 and August 12, 2008 to consider approval of your proposal and, if approved, remove the issue from the November ballot.

District staff has asked your staff to clarify a couple issues related to your proposal so that we have a basis to discuss the details on Monday.

I invite you and your staff to attend the July 21, 2008 special Board meeting to provide further input and to answers any questions the Board may have. It is our sincere desire to find an alternative solution to a Mello Roos Tax. However, we are also committed to meet our obligation to our taxpayers and students. Without an acceptable alternative solution, we must put the Community Facility District in place.

Sincerely,

Pat Flot
President, Board of Trustees

c: San Jose City Council
SCUSD Board of Trustees



CASTLE GROUP

July 16, 2008

Mayor Chuck Reed
San Jose City Hall
200 E. Santa Clara Street, 18th Floor
San Jose, CA 95113

Dear Mr. Reed:

I am writing on behalf of the North San Jose residential developers group. Collectively, our group represents all of the proposed and pending residential development for Phase I of the North San Jose Vision Policy, which lie within the boundaries of the Santa Clara Unified School District.

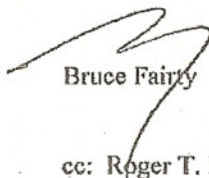
We have carefully reviewed the proposal for the creation of additional school capacity, as contained in your July 10, 2008 letter to the Santa Clara Unified School District Board. Our group greatly appreciates your efforts, and the leadership you have shown in putting forth this proposal.

The proposal calls for a flat fee of \$6,000 to be paid by the Phase I residential projects. Currently, the Level 1 School Impact Fee for the SCUSD is set at \$2.24 sq/ft, which equates to \$2,184 per unit assuming an average unit size of 975 sq. ft. The proposed fee of \$6,000 per unit is nearly three times greater than the current statutory Level 1 fees. The current difficulties facing the residential construction industry are certainly widely known, and the payment of fees in an amount almost three times greater than required by state law certainly creates a severe additional burden during these trying times.

Notwithstanding the above, however, for all of the 7,005 units in North San Jose that are located in the SCUSD, the North San Jose residential developers do agree to pay \$6,000 per unit to the SCUSD, as set forth in your proposal. This would result in total School Impact Fees from residential development of \$42,030,000. Our group understands the need to bring additional and much needed workforce housing to the North San Jose area. Also, our group supports quality education for future school children in North San Jose.

Again, we appreciate your leadership with this complex matter, and we look forward to a beneficial resolution for all parties.

Very truly yours,



Bruce Fairty

cc: Roger T. Barnes

FAIRFIELD RESIDENTIAL LLC

July 17, 2008

President Pat Flot and Members of the Santa Clara Unified School District Board
1889 Lawrence Road
Santa Clara, CA 95051

and via facsimile 408-243-3088

Dear President Flot and Members of the Board,

The Santa Clara/Sunnyvale group of property owners and developers appreciates the district's ongoing willingness to meet with our group and discuss the district's financial needs as related to our approved housing projects in these two cities. We also appreciate the fact that in the past many of you and the administration have expressed your sympathy for our unique situation since our non-San Jose projects did not have advance warning of this funding dilemma as we were working our way through the approval pipeline.

We have reviewed Mayor Reed's proposed funding solution for the City of San Jose projects and we're encouraged by what appears to be positive momentum toward a potential compromise between the district and the San Jose developers. However, as we all know, Sunnyvale and Santa Clara projects are in a very different situation than San Jose due to the lack of redevelopment agency funding as well as the fact that the district already owns closed school sites in these two cities.

In an attempt to address the district's phase 1 fiscal needs and prevent the possibility of an attempt to pass a divisive Mello-Roos measure in Santa Clara and Sunnyvale, our group agrees to also increase our school impact fees to a flat fee of \$6,000 per unit. Based upon our projected 2,800 units this equates to an approximate contribution of \$16.8 million from our group and the district would receive on average, two or three times the existing district's current State Level 1 school impact fees.

Please understand that given the economy and other financial and logistical factors, this increase represents our best possible offer to the district and we do not have the capacity for an additional contribution beyond this point. If the district should choose to reject this offer and instead pursue a Mello-Roos CFD election, this proposal expires when the ballot measure is presented to the Registrar of Voters.

We appreciate the district's consideration of our position and we share your commitment to excellent schools for the children of this community today and in the future.

Sincerely,

Mark Faulkner, Fairfield Residential LLC

On behalf of the Santa Clara/Sunnyvale Developer Group:

BRE Properties

Shea Homes

Fairfield Residential LLC

Taylor Morrison Homes

Trumark Homes

Urban Dynamic, LLC

Prometheus Real Estate Group



California Building
Industry Association

1215 K Street
Suite 1200
Sacramento, CA 95814
916/443-7933
fax 916/443-1960
www.cbia.org

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Home Builders
Association of
Northern California
San Ramon

Home Builders
Association of
Tulare & Kings Counties
Visalia

North State Building
Industry Association
Sacramento

May 22, 2008

Hand Delivered

Pat Flot, President
and Trustees of the
Santa Clara Unified School District
1889 Lawrence Road
Santa Clara, CA 95051

Re: Mello-Roos Special Tax—Statement of Opposition

Dear President Flot and Trustees:

The California Building Industry Association ("CBIA") is a statewide trade association representing more than 6,700 companies including homebuilders, trade contractors, architects, engineers, designers, suppliers, and other industry professionals. According to a recent study, the homebuilding industry contributes more than \$60 billion a year to the state's economy and generates 525,000 jobs. By advocating legislative and administrative reforms needed to provide quality, affordable housing for all Californians, CBIA is working to remove barriers to housing construction that have resulted in a housing shortfall that helps make California's urban areas the most expensive housing markets in the nation and threatens our state's future economic health.

It is rare that CBIA becomes involved in local school district tax measures, and we not do so lightly here. However, we consider the special tax under consideration as an existential threat to the current statewide school financing regime that came into being in 1998 after nearly a decade of intense negotiations at the Capitol between schools, teachers, local governments, builders, and business groups. Ultimately, Senate Bill 50 was enacted into law with the strong support of CBIA and the California Teachers Association. SB 50 has led to a massive increase in state funding for new schools—over \$19 billion in direct grants to local school districts—as well as substantially increased developer fees for school districts that meet certain minimum eligibility requirements. CBIA agreed to the increased fees, and to aggressively promote state school bonds, because the program provides necessary funding for new schools and creates certainty for the building industry in terms of its obligations.

We understand that some school districts believe their individual circumstances are unique such that strict application of SB 50's provisions would not adequately meet their future facilities needs. In our experience, however, further consideration and additional analysis reveals that the framework is flexible enough to reach satisfactory results when all relevant stakeholders join forces to develop a solution. We presume, and hope, that to be true in this case. At all events, CBIA believes it is important for the Santa Clara Unified School District Board to know that if the special tax scheme moves forward, it will move to the top of our statewide agenda, and we will be committed to stopping it.

Respectfully,



Nick Cammarota

General Counsel



Richard Lyon

Senior Legislative Advocate

HOME
BUILDERS
ASSOCIATION



OF NORTHERN CALIFORNIA

May 22, 2008

Hand Delivered

Pat Flot, President
and Members of
the Board of Trustees of the
Santa Clara Unified School District
1889 Lawrence Road
Santa Clara, CA 95051

Re: Opposition to Proposed Mello-Roos District & Request for Negotiated Solutions

Dear President Flot and Trustees:

The Home Builders Association of Northern California (HBANC) appreciates the opportunity to comment on these important matters. HBANC is a non-profit association with over 800 members dedicated to advancing homeownership and quality housing for Bay Area residents. HBANC has long been active in the South Bay, its members having built many of the vibrant communities and neighborhoods served by the District. HBANC and its members recognize the importance of high quality schools to new communities and have aggressively supported passage of local school bonds throughout the Bay Area to ensure the availability of funding for needed school facilities.

We understand that the District has legitimate concerns regarding future school facilities. There are some who argue that the proposed \$788,000,000 "2-tier" Mello Roos Special Tax (proposed tax) measure is the only "solution." We do not agree. HBANC has carefully reviewed the District's documents outlining its view of the current and projected school facilities situation, and we think it is clear that there are viable options that can meet the District's needs without subjecting an already struggling industry to a potential death blow. Throughout the Bay Area, builders, school districts, and cities have created partnerships to develop mutually beneficial school funding solutions. These solutions can involve close cooperation in securing state funding, close consultation and commitments regarding building plans and schedules, collaboration on school construction, and creative financial arrangements. This approach is not easy. But it can be done if there is the political will on all sides. It should be done here, and HBANC stands ready to play a productive role in the process.

If history is a guide, the alternative—proceeding with a \$788,000,000 tax hike that will appear on voters' property tax bills—is likely to involve a divisive full-scale political battle right in the middle of an election year. A battle that, again if history is a guide, the District is very likely to lose: according to EdSource, from 1983 to 2006, only 48% of school district Mello-Roos special tax

Mailing Address:

P.O. Box 5160

San Ramon

California 94583-5160

200 Porter Drive

#200

San Ramon

California 94583

Tel (925) 820-7626

Fax (925) 820-7296

Website: hbanc.org

measures passed muster with the voters; and to our knowledge the only two that involved a similar 2-tier scheme were defeated. This "success" rate stands in stark contrast to the 83% approval rate of local g.o. bonds since 2001.

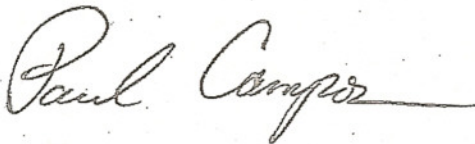
As the Board considers these matters, we request you consider the following comments and observations:

- HBANC categorically oppose the proposed tax. In addition to the reasons set forth in the letter submitted by the California Building Industry Association, we oppose the proposed tax because it would impose an unfair and economically unbearable burden on the builders and future residents of new housing.
- It is a sobering real world economic environment in which the District is proposing this massive tax increase of almost a billion dollars—
 1. Santa Clara County home sales are down 40.5% from last year
 2. In the first quarter of 2008, a record 3,074 notices of default were sent out in Santa Clara County
 3. In the last 10 years the annual value of new non-residential construction in San Jose has fallen by 50%.
 4. In the first 3 months of 2008, only 254 residential building permits (single-family and multi-family) were issued in the San Jose-Sunnyvale-Santa Clara Metropolitan Statistical Area. This is a 58.5% decrease from 2007 levels and on course to be over 80% below the annual levels from 10 years ago.
 5. Year-to-date California is averaging 15,574 foreclosures per month; In 2005 California averaged 242 foreclosures per month.
 6. California lost 41,400 construction jobs in 2007.
- Given the current state of housing for both builders and homeowners—which influential economist Robert Shiller of Yale University has described as "depression era," neither builders nor future residents can bear the proposed massive tax increase.
- The proposed tax would kill any chance of recovery for new housing in the region. Recovery is crucial for the region's economic vitality and quality of life. According to a study by the Sacramento Regional Research Institute, as recently as 2004 new housing contributed to over \$8.7 billion in economic output and 25,000 jobs in the San Jose Primary Metropolitan Statistical Area. The region—and the District's residents—need a healthy housing industry.

3 | Members of the Santa Clara Unified
School District Board of Trustees
May 22, 2008

For all these reasons, HBANC urges the Board to table the agenda items that would lead all parties down a destructive path, and instead fully engage with stakeholders and the affected cities to craft a workable solution.

Yours very truly,

A handwritten signature in cursive script that reads "Paul Campos". The signature is written in dark ink and has a long, horizontal flourish extending to the right.

Paul Campos
Senior Vice President



Serving June 24, 2008
 Santa Clara
 San Mateo The Honorable Pat Flot
 Santa Cruz President, Santa Clara Unified School Board
 Counties 1889 Lawrence Road
 Santa Clara, CA 95051

Tri-CAA Network

- California Apartment Association
- Apartment Association Greater Inland Empire
- CAA Central Coast
- CAA Central Valley
- CAA Contra Costa
- CAA Greater Fresno
- CAA Los Angeles
- CAA Maricopa
- CAA San Antonio/Alamo
- CAA Tri-County
- Income Property Association of Kern
- Martin Income Property Association
- North Coast Rental Housing Association
- Rental Housing Association of Northern Alameda County
- Rental Housing Association of Sacramento Valley
- Rental Housing Owners Association of Southern Alameda County
- San Diego County Apartment Association
- San Francisco Apartment Association
- San Joaquin County Rental Property Association
- South Coast Apartment Association

Dear President Flot:

The California Apartment Association, Tri-County Division (CAA Tri-County), representing over 3000 owners, managers, and developers of residential rental property opposes the proposed ballot measure to implement a Mello Roos district in the Santa Clara Unified School District. The Association is concerned over the financial impact the proposed assessment on new residential construction will have on the future growth of Santa Clara County's housing supply.

Over the past few years, rents in Silicon Valley have increased, demand for rental housing has increased, but housing supply has remained stagnant. The proposed 32,000 new residential units in North San Jose are imperative to the future growth of our community while keeping the valley's economy strong and competitive.

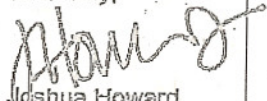
As the demand for housing continues to outpace supply, this assessment which could add at least \$65,000 to the cost of each new housing unit would only deter development of new housing in the North San Jose area. In turn, the cost of housing in Santa Clara County would continue to skyrocket or, if built, rental housing in this area would be even more expensive for those who need it most.

CAA Tri-County has long been a champion of education and investments in safe, productive learning environments for students. A number of alternative solutions to address the school need for the potential number of students that may come from this new development have been offered. With further dialogue and discussion, an amicable solution is possible.

We urge the Santa Clara Unified School District to continue working with the development community on a solution that promotes housing development and affordability while also encouraging investments in education.

As this process continues to move forward, I welcome the opportunity to assist in bringing about a reasonable resolution to this matter.

Sincerely,


 Joshua Howard
 Executive Director
 CAA Tri-County

Cc: Santa Clara Unified Board of Trustees
 Mayor Chuck Reed, City of San Jose
 Mayor Patricia Mayhan, City of Santa Clara
 Mayor Tony Spiltairi, City of Sunnyvale
 Roger Barnes, Santa Clara Unified School District
 Steve Stavis, Santa Clara Unified School District

Quality Housing - Ethics - Professionalism



224 Airport Parkway, Suite 620
San Jose, California 95110
(408) 501-7864 Fax (408) 501-7861
<http://www.svlg.net>

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SunPower

KENNETH WILCOX
SVB Financial Group

Working Council Chair
VICTOR ARRAÑAGA, JR.
Applied Materials

Established in 1978 by
DAVID PACKARD

June 24, 2008

Honorable Chuck Reed

Mayor, City of San Jose

200 East Santa Clara Street, 18th Floor
San Jose, CA 95113

Honorable Pat Flot

President, Santa Clara Unified School Board

1889 Lawrence Road

Santa Clara, CA 95051

Dear Mayor Reed and Board President Flot,

On behalf of the Silicon Valley Leadership Group, we are writing to convey our thoughts on the redevelopment of North San Jose and the resulting educational needs.

The Silicon Valley Leadership Group, founded in 1978 by David Packard of Hewlett-Packard, represents more than 270 of Silicon Valley's most respected employers on issues, programs and campaigns that affect the economic health and quality of life in Silicon Valley, including energy, transportation, education, housing, health care, tax policies, economic vitality and the environment. Leadership Group members collectively provide more than 250,000 local jobs, or one of every four private sector jobs in Silicon Valley.

In a letter dated May 21st, the Leadership Group encouraged the City and District to pursue a negotiated settlement in lieu of a ballot measure. We would like to reiterate that point today. Given the economic development potential of the North San Jose Plan and the resulting benefits to Silicon Valley, as a region, it remains of critical importance that the City and the District find a solution that addresses the educational needs of our school children as well as the housing needs of our workers and community members. For that reason, we would not be supportive of a ballot measure that would significantly threaten the economic viability of the Plan.

We understand that there have been ongoing discussions and ideas about how both sides might find common ground. We strongly encourage these discussions to continue and believe the proposal being forwarded by the development community represents a good starting point. That proposal includes:

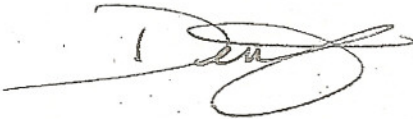
- The construction of a K-8 school to accommodate 900 students through a combination of San Jose funds and developer fees to address the impacts from the Phase 1 residential development.
- Agreement on a mechanism and assurance to the District that addresses course corrections, if needed.
- Delay of discussions on Phase II development until those homes will likely be developed.

- Clarity on the affordable housing component from the City and a recalculation of student generation rates for that element of the North San Jose Plan.

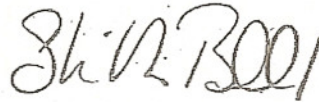
Again, we believe this proposal represents a starting point for discussions.

The District and City each care deeply about the interests they serve. The City has long been a leader in housing production and has proactively planned North San Jose to capitalize on its underutilized economic development potential. The District, too, has demonstrated its commitment to affordable housing through developments like Casa del Maestro and continues to work diligently to ensure excellent student outcomes. Kudos to both for this excellent service, passion and commitment to our community and economy. We encourage your continuing collaboration.
Please let us know how we can be helpful in moving this issue to resolution.

Sincerely,



Dennis Cima
Vice President
Education & Public Policy



Shiloh Ballard
Director
Housing & Community Development

cc: Roger Barnés, Tom Adams, Ru Weerakoon, Councilmember Kansen Chu, SCUSD Board, Bruce Fairty



CHAMBER OF
COMMERCE

June 25, 2008

Pat Flot
President, Santa Clara Unified School Board
1889 Lawrence Road
Santa Clara, Ca 95051

Dear President Flot,

On behalf of the San Jose Silicon Valley Chamber of Commerce, I am writing to express our opinion on the District's proposed action of placing a Mello-Roos tax measure before voters this November.

The San Jose Silicon Valley Chamber of Commerce has represented the business community for more than 120 years. Our current membership represents some 2,200 employers that provide jobs for more than 350,000 Silicon Valley residents. Our mission includes advocating for the well-being of our region's economy, housing supply, and schools.

It is the hope of the Chamber that the Board will not move forward with a ballot measure to resolve a policy issue. It is our belief that such action will have a negative impact on the Silicon Valley economy that relies on our expanding job base and a steady flow of housing for its workers. While we understand the District's responsibility to anticipate future facility needs for its students, we believe the Mello-Roos proposal goes too far.

Instead, we ask that the District continue the open dialogue with developers and the City of San Jose to work towards an agreeable compromise. As a starting point to negotiations, we would encourage you to seriously consider the proposal being brought forward by the development community that includes:

- The construction of a K-8 school to accommodate 900 students with options for expansion, paid for through a combination of San Jose funds and developer fees, to address the impact of Phase I residential development.
- Agreement on a mechanism and assurance to the District that addresses course corrections, if needed for future phases of the North San Jose plan.
- Delay of discussions on Phase II development until those homes will likely be developed.
- Clarity on the affordable housing component from the City and a recalculation of student generation rates for that element of the North San Jose Plan.

By working to forge an agreeable compromise we can avoid the associated cost to the district of placing a measure on the ballot and the resulting campaign that would ensue, the delay or elimination of much needed jobs, housing, and a lengthy and contentious election for all involved.

As this process moves forward I welcome the opportunity of assisting in any way possible to help develop a fair and reasonable resolution to this issue.

Sincerely,

A handwritten signature in cursive script that reads "Pat".

Pat Dando
President & CEO
San Jose Silicon Valley Chamber of Commerce

Thank you for your consideration.

THOMPSON | DOREMAN

URBAN RESIDENTIAL DEVELOPMENT

June 26, 2008

President Pat Flot
Board of Education
Santa Clara Unified School District
1889 Lawrence Road
Santa Clara, CA 95051

Re: Mello-Roos Ballot Initiative

Dear President Flot and Members of the Board of Education:

I am writing today on behalf of 12 property owners and developers to request your support of a proposal we have initiated to address the school capacity issue in North San Jose. We are supportive of the District's enrollment concerns, and are willing to assist the District in meeting its needs. Over the past 2 months, we have coordinated several productive meetings with the District administration, City of San Jose Mayor's Office, and City of San Jose Redevelopment Agency. These meetings have had notable results including the commitment by the RDA to contribute \$45 million to the acquisition and construction of school sites and facilities, as well as more detailed information regarding the implementation of San Jose's affordable housing program.

We have prepared the attached proposal to provide for those students generated from the first phase of units approved as part of the Vision North San Jose plan who are within the District's jurisdiction. These units are likely to be built over the next decade. A summary of the proposal includes the following terms:

- Funding for a 900-student K-8 school and the construction of a joint-use public park
- Commitments of \$45 million from the RDA and \$25 million from development fees for the proposed school; the park will be acquired, and solely financed by the City of San Jose
- Agreement by the City and RDA that the new school and park will be located on the Agnews East property
- Pledge by the City and RDA to review funding for future school facilities at such time that additional phases of the housing contemplated by the Vision North San Jose plan are approved. This will allow all parties to better anticipate the likely impacts on the District for subsequent phases based on the student yield of the first phase of units. It does not preclude the District from pursuing a Mello-Roos or other financing sources for future phases.

We are presently seeking the commitment of the City and RDA. However, we are concerned that if the District approves placing the Mello-Roos District on the November ballot in its meeting this Thursday, these discussions will come to an end and significant funding opportunities will be lost. We suggest that this action be deferred until your Board meeting on July 24th or later to allow for more substantive discussions among the parties.

We would also make the following observations about certain elements of the creation of the proposed Mello-Roos District and its underlying assumptions.

- The student generation rates as depicted in the School House Services report, while generally accurate for high-density market rate housing, are particularly flawed for the affordable housing component of Vision North San Jose. The SHS report's affordable housing student generation figure is based on low-density, family-oriented development – which is effectively prohibited by the Vision plan given minimum allowable densities of 55 units per acre. The SHS report also does not account for inclusionary housing, senior housing, single room occupancy or special needs housing – all of which have student generation rates similar to, or lower than, high-density market rate housing and typically comprise over 50% of the affordable housing projects in San Jose.
- The District's poll of prospective voters showed support for the ballot initiative at levels less than the super-majority required for approval. Moreover, this poll showed that there is considerable support for the creation of affordable housing in North San Jose, but not for a tax that amounts to thousands of dollars on this new housing. We have attached an analysis of the District's polling prepared by the well-regarded political consulting firm of Terris Barnes Walters.
- Since almost the entire burden of this tax will be on new homes which will be triggered by their construction, the creation of a Mello-Roos District looks much more like a development fee than a tax. However, the District has not gone through the steps to legally adopt such a fee, including the necessary studies and findings. We also believe the tax far exceeds the maximum amount that can legally be imposed on new development under SB-50.

We bring up these items as we believe that a solution negotiated with the City, RDA, and the development community has a greater likelihood of accomplishing the District's objectives without incurring the costs, effort, and anxiety related to a controversial ballot measure. Moreover, we believe that once the generation rates are corrected for the proper

President Pat Flot and Members of the Board of Education
June 26, 2008
Page 3

affordable housing student yield, the capacity of the proposed Agnews K-8 school will exceed the demands created by the first phase of housing.

Finally, individually, and collectively, we are supportive of the Santa Clara Unified School District and its actions to improve the academic experience provided to its students. We believe that quality educational facilities are an important part of the community being created in North San Jose and are hopeful that we can accomplish this in a collaborative manner.

Respectfully,



Bruce Dorfman
Principal

Thompson | Dorfman Partners, LLC

on behalf of:

BRE Properties, Inc.
Castle Group
Equity Residential, Inc (Vista Montana Park Homes, LLC)
Essex Portfolio, LP
Fairfield Development, LLC
Legacy Partners Residential, Inc
Prometheus Real Estate Group, Inc (Lickmill Creek Apartments)
The Irvine Company, LLC
Trammell Crow Residential (SV Apartments Holdings SLP)
Taylor Morrison
Trumark Companies

Attachments

cc: Mayor Chuck Reed, City of San Jose
Superintendent Steve Stavis, SCUSD
Roger Barnes, Community Relations Officer, SCUSD
John Weis, Deputy Executive Director, RDA

North San Jose Area Proposed Mitigation Plan for New School Capacity

I. Executive Summary of Proposal

The following is a summary of the Proposal. A detailed description of each item can be found later in this document.

- SCUSD agrees to not pursue the proposed district-wide Mello-Roos Community Facilities District.
- For Phase I North San Jose Area Development Policy units located within the SCUSD:
 - Contributions of land and funding to be provided for a new 900 student K-8 school
 - The new K-8 school to be achieved through joint contributions valued at approximately \$69 million by North San Jose residential projects and City of San Jose and/or Redevelopment Agency, as follows:
 - \$15.5 million from current SCUSD Level 1 school impact fees (\$2.24/sf) paid by new residential development
 - \$5 million from additional school impact fees at the State Maximum (\$2.97/sf) paid by new residential development
 - \$45 million from the RDA Capital Improvement Program
 - \$4 million from current SCUSD Level 1 school impact fees (\$.47/sf) paid by new industrial and commercial development
 - Potential savings from city park/school yard joint use
- City of San Jose to add specificity (particularly location and unit types) to Phase I affordable housing program and SCUSD to recalculate student generation rates based on the specific program.

- Discussions as to funding new school capacity for future phases of the North San Jose Area Development Policy to be suspended until such time as Phase II of the policy is set to begin.
-

II. Background

The North San Jose Area Redevelopment Policy ("Policy") establishes a framework to guide the future development of the North San Jose area as an important employment center for San Jose. The North San Jose area has become the preeminent location for driving technology office and industrial uses within the City of San Jose ("City") and Silicon Valley. Upon ultimate build out, an additional 26.7 million square feet of office and industrial space will be developed in North San Jose.

To support the new office and industrial development the Policy also provides for the conversion of certain sites from industrial to high-density residential. Under the Policy, 32,000 new residential units will ultimately be located in North San Jose. The residential development will occur in phases timed so as to be commensurate with the required levels of office and industrial development as well as the required level of infrastructure improvements.

A portion of the new residential units will be located within the boundaries of the Santa Clara Unified School District ("SCUSD"). The SCUSD has identified what they feel will be a future shortfall in school capacity that will be required to serve the future North San Jose development.

As discussed above, the residential development is required to occur in phases. Phase I of the residential portion of the Policy is comprised of 8,000 units. Many of these Phase I units will be located within the boundaries of the SCUSD. A group has been formed ("Developer Group") which is composed of all of the developers for that portion of Phase I of the residential development that is located within the SCUSD. This Developer Group has been working closely with the Silicon Valley Leadership Group ("SVLG") to craft a proposal to address the need for school capacity to serve the Phase I residential development.

To address the need for new school capacity to serve the Phase I residential development, the North San Jose Developer Group and the Silicon Valley Leadership Group propose the following:

III. Proposal for Phase I

1. SCUSD would not pursue the creation of the proposed district-wide Mello-Roos Community District at this coming November election.
 2. The amount of \$69 million for the Phase I residential units located within the boundaries of the SCUSD, would be made available to the SCUSD for the purpose of establishing one K-8 school in the North San Jose area. The K-8 school would accommodate 900 students. The new K-8 school would presumably be built at the Agnews West site, as identified by the North San Jose Task Force. Among the City, RDA, and SCUSD, the Agnews West site appears to be the "consensus site" for a new school.
-

The \$69 million contribution is proposed to be achieved as follows:

- a) Level 1 impact fees would be paid by the residential projects located within the SCUSD as each project was issued building permits. The sum of all Level 1 impact fees for Phase I residential units is estimated to total \$15.5 million.
- b) Residential projects would pay an additional school impact fee equal to the difference between the current SCUSD fee off \$2.24/sf and the State maximum of \$2.97/sf. The additional fees from Phase I residential units is estimated to total \$5 million.
- c) The San Jose Redevelopment Agency ("RDA") would contribute land and funding to a total of \$45 million. The funding for this contribution would come from the RDA's Capital Improvement Program funds. This is consistent with the proposal contained in the letter dated May 22, 2008 from Debra Fignone of the City of San Jose and Harry Mavrogenes of the Redevelopment Agency to Pat Flot of the Board of Trustees of the SCUSD.
- d) Potential savings from establishing joint use of an adjacent city park as a school yard for the K-8 school. This type of school/park relationship is presented in both the School Report (Page 23) and the Park & Recreation Facilities Report (Page 26) of the North San Jose Task Force. The Park Report explicitly ranks the Agnews park with an adjacent school as one of the top three potential community park locations. The Park Report further states that "sufficient funding [from PDO/PIO sources] should be available for the purchase of these parcels...."(Page 28)
- e) The District will also receive Level 1 developer fees for all new industrial and commercial development in North San Jose. According to the District's Report, they anticipate 9 million square feet of industrial/commercial development within

their boundaries. At the current allowed fee of \$0,47/sf, this fee would generate over \$4 million.

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3. Most of the disagreement as to the impact of future residential development on potential school enrollment stems from the SCUSD's uncertainty as to the character and location of future affordable, or Below Market Rate, units. Per consultant's studies prepared for the SCUSD, 73% of the future enrollment will come from 15% of the units designated as "affordable units."

It is critical that the City, RDA and SCUSD work together to identify the amount, types, and location of the future affordable units that will be built in North San Jose. It is therefore proposed that the City of San Jose should immediately work to identify:

- a) the types of affordable units that will be built in North San Jose, e.g. senior units, SRO, family units, typical studio, one bedroom and two bedroom units, etc.;
- b) the proposed target income levels for the units, such as moderate, low and very low income households;
- c) the proposed amount of each unit type by income level, and;
- d) the anticipated location for the affordable units, whether inside or outside the SCUSD area.

It is further proposed that upon receipt of this information from the City, the SCUSD's and Developer or City's Group's school consultant should collaboratively work together to recalculate the student generation rate from the affordable units. The consultant reports prepared for the SCUSD assume that 100% of the affordable units to be built in North San Jose would be "family units" generating in excess of one student per unit. It is anticipated that having the City specify in better detail the affordable program in North San Jose will result in the development of many more housing types than 100% family units, such as senior affordable, SRO studio/one-bedroom/two-bedroom, etc. Also, it is anticipated that all income levels will be served by the affordable units in North San Jose, i.e. moderate, low and very low incomes, rather than the assumption made by SCUSD's consultants that the entirety of the affordable units will be targeted to households earning at the very-low income level. As a result of this proposed joint exercise by the City and the SCUSD, a recalculation of the student generation from the affordable units that will be built in North San Jose should result in a significantly lower projection of future student enrollment that will come from affordable units.

Having recalculated its estimate of student generation rates from the affordable units based on information provided by the City, it will be necessary for the SCUSD to have a substantial degree of certainty that the City will not significantly change the affordable program. It is therefore proposed that the City should either enter into a written agreement with the SCUSD to not alter the affordable unit program, or at the very least, not increase the type of units that would increase the number of future students from the affordable units. In the alternative, or in addition, a mechanism could be created whereby the contribution from the City and RDA as described in Section 2 (b) above would increase in the event that a deviation to the affordable program occurred in a way that increased student generation.

IV. Proposal for Phase II and future

The above proposal addresses the Phase I units that will be built as part of the North San Jose Area Development Policy. Phase I residential units are obviously a more known commodity than future phases of the Policy. Furthermore, there today exists substantial disagreement among the Developer Group, City, RDA and SCUSD as to the true student generation that will result from the development of the exclusively high density type projects that will be built in the Policy area, which have historically not been built in Silicon Valley.

Given the lack of knowledge as to the characteristics and location of the future phases of residential units, as well as the lack of a true and accurate student generation information for high density residential development, it is therefore proposed that discussion of the creation and funding of school capacity for future phases of residential development should be suspended until such time as Phase II of the residential development is set to occur. At the time Phase II residential development is to occur, the actual student generation impact from the Phase I units will be known. Therefore, most of the current source of disagreement about student generation rates should no longer exist, or at least be substantially reduced. Furthermore, inasmuch as the proposal for Phase I described above fully addresses the school capacity needs for the currently pending Phase I units, the SCUSD is not disadvantaged by agreeing to wait to address future phases of residential development. Lastly, neither the City, RDA nor SCUSD is in any worse position in the future, with respect to implementing or challenging the currently proposed Mello-Roos tax.